

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARGARET RATNER KUNSTLER,
Plaintiff,

22-cv-6913 (JGK)

- against -

ORDER

CENTRAL INTELLIGENCE AGENCY, ET
AL.,
Defendants.

JOHN G. KOELTL, District Judge:

All of the claims in this case have been dismissed against the Central Intelligence Agency ("CIA") and Director Michael R. Pompeo. Certificates of default have been entered against the two remaining defendants, Undercover Global S.L. ("UC Global") and David Morales Guillen ("Morales"), and both defendants failed to respond to orders to show cause why default judgments should not be entered against them. See ECF Nos. 50, 56, 62, 67. The parties have provided their respective views to the Court on the appropriate disposition of the case against the defaulting defendants. See ECF No. 100.

A defaulting defendant concedes the validity of the well-pleaded factual allegations in the complaint. See Henry v. Oluwole, 108 F.4th 45, 55 (2d Cir. 2014); Vt. Teddy Bear Co., Inc. v. 1-800 Beargram Co., 373 F.3d 241, 246 (2d Cir. 2004). However, the Court must be satisfied that the allegations in the complaint state a cause of action before entering default


judgment. See Henry, 104 F.4th at 55; Au Bon Pain Corp. v. Artec, Inc., 653 F.2d 61, 65 (2d Cir. 1981).

In this case, the only claim against the defaulting defendants is a Bivens claim, but the Court has already dismissed the Bivens claim based on similar allegations against Defendant Pompeo. Kunstler v. CIA, No. 22-cv-6913, 2023 WL 8776339, at *4 (S.D.N.Y. Dec. 19, 2023). Additionally, there can be no Bivens claim against the defaulting defendants because they are alleged to be private parties and thus are not subject to a Bivens claim. See, e.g., Minneci v. Pollard, 565 U.S. 118, 126-27 (2012). It is therefore unnecessary to reach the Government's argument that the state secrets privilege requires the Court to dismiss the claim against UC Global and Morales.

Accordingly, the claim against the defaulting defendants is dismissed. Because all of the claims against all of the defendants have now been dismissed, the Clerk is directed to enter judgment dismissing the Amended Complaint with prejudice. The Clerk is also directed to close this case and to close all pending motions.

SO ORDERED.

Dated: New York, New York
March 24, 2025



John G. Koeltl
United States District Judge